

MAINE STATE LEGISLATURE

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Vacation Credits re Probationary Period

FACTS:

Mr. Harold H. Rackliff (deceased) was originally employed at the Boys Training Center on September 21, 1958. On March 14, 1966 he was promoted and placed on probation, and on August 20, 1966 he died. Inasmuch as he did not complete probation his estate was paid only that accumulated vacation leave accrued prior to his promotion. This was based on the first paragraph of Personnel Rule 9.2 and the third paragraph of Personnel Rule 11.7.

QUESTION:

Under the provisions of the Personnel Rules, is a person's estate entitled to payment for vacation time earned by the deceased during a period of probation, even though said period of probation was not completed?

ANSWER:

Yes.

REASON:

Rule 11.7, paragraph 1, of the Rules of the Personnel Board contains the following language:

"Vacations shall be granted at such time or times as shall be mutually agreeable to the employees and appointing authorities involved. No vacation shall be granted during the probationary period of service, except on credits earned prior to promotion, but upon satisfactory completion of such period, vacation leave shall accrue to the employee for the time served."
(Emphasis supplied.)

We feel that the word "accrue" is improperly used in the third paragraph of Rule 11.7 and is intended to mean simply that vacation leave earned during the probationary period shall be granted or allowed only when an employee has satisfactorily completed his period of probation.

The reference paragraph of Rule 11.7 is primarily involved not with the earning of vacation time, but with the granting or the allowance of vacation time, once it is earned. This reasoning is supported by certain of the language appearing in Rule 9.1 of the reference Rules, as follows:

"The probationary period shall be regarded as an integral part of the examination process, and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his position, and for rejecting any employee whose performance does not meet the required work standards."

In the implementation of the purpose of probation, it is logical that vacation time which is earned during the probationary period is not to be granted to the employee until the probationary period has been completed. But it does not follow that vacation leave earned by an employee should not be paid to or credited to such employee simply because he fails to complete his probationary employment.

In conclusion, Rule 11.7, paragraph 3, makes it clear that vacation time may be earned by an employee during his period of probation. The limitation of the reference Rule only concerns the time when said earned vacation may be realized by the employee.

JWB:H

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